

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

THE ATLAS-LEDERER COMPANY, et al.,

Defendants.

:

:

Case No. 3:91cv309

:

JUDGE WALTER HERBERT RICE

:

DECISION AND ENTRY SUSTAINING MOTION OF GOVERNMENT FOR
AN ORDER COMPELLING DEFENDANTS ACE IRON & METAL
CO./NORMAN'S AUTO WRECKING/ALAN LEVINE AND EDISON
AUTOMOTIVE, INC., TO SUPPLY REQUESTED FINANCIAL DOCUMENTS
(DOC. #897)

Following a review of the materials submitted both in support of and in opposition to the Motion of the Government, seeking an order of the Court compelling Defendants Ace Iron & Metal Co./Norman's Auto Wrecking/Alan Levine and Edison Automotive Inc. to supply requested financial documents (Doc. #897), this Court deems said Motion to be well taken and same is, therefore, sustained in its entirety.

This Court is satisfied that the Government is not seeking to compel the Defendants to enter into any settlement in which it is uncomfortable doing so; rather, the Government simply seeks information to determine whether the Defendants' offers, based upon their ability to pay, is one which ought to be accepted by the Government. The alternative to providing the requested information is to engage in further litigation which will, if Defendants are to be believed, further

reduce their ability to enter into a mutually agreeable settlement.

As of this point, with none of the Court's rulings having been contested on appeal, each of the Defendants from whom information is sought to be compelled is a judgment debtor of the Government. The Government, as a judgment creditor, has a perfect right to solicit the information sought, either by seeking to compel the production of certain documents or by conducting a judgment debtor's examination. That is all that is sought to be done here. This Court does not believe, based upon the material submitted both in support of and in opposition to the Government's motion, that said Motion to Compel is an attempt to enforce any provision of the relevant law. Rather, as previously stated, the information is properly sought to determine whether the Defendants' offers, offers less than the Government has sought or the remaining indebtedness owed the Government, are reasonable in the sense that they are within each Defendant's ability to pay.

WHEREFORE, having sustained the Government's Motion to Compel certain requested financial documents (from all except David Edison who is not nor has he ever been a party Defendant to this litigation), the Court orders the Defendants Ace Iron & Metal Co./Norman's Auto Wrecking/Alan Levine and Edison Automotive Inc. to produce, within 30 days from date, to Government's counsel, the following:

For Defendant Alan Levine, (a) complete and signed copies of the last three (3) years of personal federal income tax returns. Documents should include all schedules and attachments as filed with the US Internal Revenue Service; and (b) a personal financial statement of debtor (Form OBD-500), a copy of which was attached to the United States' Motion to Compel (Doc. #899) as "Attachment A."

For the corporate or business-entity Defendants, (a) the last three (3) years of company or business federal tax returns (in this case, from Ace Metals Co., Norman's Auto Wrecking, and Edison Automotive, Inc.); (b) all internal financial statements (i.e., income statement, balance sheet, statement of cash flows, and supporting notes and schedules) for the three (3) most recent years of operation. Audited statements are preferred, but un-audited statements will be accepted; and (c) year-to-date information and/or financial statements for 2012, as available.

April 12, 2013



WALTER HERBERT RICE
UNITED STATES DISTRICT JUDGE

Copies to:

Deborah Reyher, Esq.
Joseph Warren, Esq.
Alison McGregor, Esq.
Sherry Estes, Esq.
Martin Lewis, Esq.